

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BENJAMIN MACKINNON

Plaintiff,  
-against-  
THE FINANCIAL TIMES,  
Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 12/26/19

19-CV-4999 (LGS) (BCM)

**ORDER SCHEDULING SETTLEMENT  
CONFERENCE**

**BARBARA MOSES, United States Magistrate Judge.**

A settlement conference is scheduled before Magistrate Judge Barbara Moses on **Monday, February 3, 2020, at 2:15 p.m.**, in Courtroom 20A, 500 Pearl Street, New York, NY 10007.

1. Attendance Required. Plaintiff must attend the settlement conference in person. If plaintiff engages counsel prior to the settlement conference, counsel must also attend in person. Defendants' counsel must attend in person. A representative of each defendant must attend in person. Each representative must be a decision-maker with knowledge of the case and responsibility for determining the terms of any settlement; that is, a person who decides what settlement authority to give to counsel, not a person who has received, or must seek, authority from someone else. Counsel attending the conference must be fully knowledgeable concerning the facts of the case, relevant law, and the progress of the case to date, including settlement discussions. If a party or counsel who is required to attend the settlement conference fails to do so, that party or counsel may be required to reimburse the other participants for their time and travel expenses, or face other sanctions.

2. Pre-Conference Settlement Discussion Required. The purpose of a Court-facilitated settlement conference is to settle the case if possible – not merely to begin a settlement dialog. The Court normally holds only one settlement conference per case. The Court therefore

requires that, promptly after receipt of this Order, the parties conduct at least one good-faith settlement discussion, in person or by telephone, and that each party convey to each opposing party at least one good-faith settlement demand or offer, in advance of the deadline, set forth below, for submitting confidential settlement letters. Past settlement negotiations may not be relied upon to satisfy this requirement. The Court recommends that the parties continue such discussions prior to the conference so as to clarify issues, narrow disputes, and otherwise make the conference as efficient and meaningful as possible.

3. Confidential Settlement Letter. No later than **January 27, 2020**, each party shall submit a confidential settlement letter to chambers by mail, courier, or hand delivery, marked "Confidential Material for Use Only at Settlement Conference." Letters sent by mail or courier should be addressed to: Hon. Barbara Moses, Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., New York, NY 10007-1312. Hand deliveries should be left with the Court Security Officer at the Worth Street entrance of the Daniel Patrick Moynihan Courthouse.

Do not file the confidential settlement letter on ECF or submit it to the Pro Se Intake Unit.  
Do not send copies to the adverse party unless all parties have agreed to exchange their letters. Settlement letters are limited to six pages, not including any exhibits, which are permitted but should be kept to a minimum. The parties should assume the Court is familiar with the file. Each letter should contain:

- a. A summary of the relevant facts and law, focusing on the issues most important to settlement.
- b. A candid assessment of the strengths and weaknesses of the case, together with an equally candid discussion of the goals that each party hopes to achieve through litigation of this matter and the ways in which those goals might be achieved through

settlement. If there are any impediments to settlement that fall outside the scope of this court proceeding, note them here.

c. A brief description of settlement negotiations to date, including the date and time of the parties' last good-faith settlement discussion and the terms of each party's most recent proposal.

d. Any other information likely to be helpful to the settlement process.

4. Acknowledgment Form. On the same date that the confidential settlement letters are due, each party shall submit the attached Acknowledgment Form to chambers by email, with an email copy to all other parties, identifying the individuals who will attend the settlement conference. Do not file the Acknowledgment Form on ECF or submit it to the Pro Se Intake Unit.

5. Conduct of the Conference. All proceedings at the settlement conference will be confidential. Discussions are "off the record," and may not be used in discovery or at trial. The Court will function as a mediator, to assist the parties in reaching their own agreement. Efficient use of this process requires that parties and counsel be prepared for the conference and open with the Court. At the outset of the conference, the Court may ask each party to make a brief presentation in the presence of all parties and counsel. Since the purpose of the conference is to facilitate settlement – not to try the case – presenters are requested to address their remarks directly to the opposing party and to focus on the issues most relevant to settlement. Following the initial joint session, the Court will work separately with each side in private. (In some cases, the Court will dispense with the initial presentations and begin with separate sessions.) During these sessions the parties should be prepared to tell the Court, if applicable, what legal fees and costs they have incurred to date, as well as their estimates of future fees and costs if the case

continues to a judgment.

6. Requests to Reschedule the Conference or Modify these Procedures. Requests to reschedule the settlement conference, or to modify the page limits, attendance requirements, or other provisions of this Order, must be made by letter-motion, filed via ECF (or submitted to the Pro Se Intake Unit, Room 105, Thurgood Marshall Courthouse, 40 Foley Square, New York, NY 10007) in accordance with the Individual Practices of Judge Moses, as soon as the need for the adjournment or modification arises and in any event at least one week (seven calendar days) before the scheduled conference. Requests for adjournment must include two proposed dates, acceptable to all parties and counsel, for the rescheduled conference. Before proposing dates, parties are advised to telephone chambers to determine the Court's availability. Requests to modify the attendance requirements will be granted only on a showing of significant hardship. If the parties settle the case before the scheduled conference, they must promptly so inform the Court by letter, filed via ECF, stating whether the settlement requires Court approval and, if not, how much time the parties require to submit a stipulation of dismissal to the district judge.

7. The Clerk of Court is directed to mail a copy of this Order to the plaintiff.

Dated: New York, New York  
December 26, 2019

**SO ORDERED.**



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BARBARA MOSES  
United States Magistrate Judge

## ACKNOWLEDGMENT FORM-SETTLEMENT CONFERENCE

Counsel of record for each party must complete and sign this form and email it to the Court at Moses\_NYSDChambers@nysd.uscourts.gov, with copies sent simultaneously to all other parties, no later than one week (seven calendar days) before the parties' scheduled settlement conference.

Name of Case: \_\_\_\_\_

Docket No.: \_\_\_\_\_ Date of Sett. Conference: \_\_\_\_\_

Name of Party Submitting this Form: \_\_\_\_\_ Pltf.  Def.

1. Acknowledgment by Counsel. I am lead trial counsel for the party listed above. I acknowledge my obligation to attend the settlement conference in this action in person, accompanied by my client (if the client is a natural person), or by a client representative (if the client is a non-natural person) who is a decision-maker with knowledge of the case and responsibility for determining the amount of any ultimate settlement. I further acknowledge that if insurance carrier approval, consent, or funding is required for my client to settle this action, a representative of each relevant carrier, who is a decision-maker with knowledge of the case and responsibility for determining the amount of any ultimate settlement (or the carrier's portion thereof) must attend the conference.

2. Client Attendance.\* Check one box:

- My client is a natural person. My client will attend the settlement conference in person.
- My client is a corporation, union, agency or other non-natural person. The following individual will attend the settlement conference in person as a representative of my client:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

3. Carrier Attendance.\* Check one box:

- No insurance carrier approval is required for my client to settle this case.
- The following individual will attend the settlement conference in person as a representative of the following insurance carrier:

Name: \_\_\_\_\_

Title/Name of Carrier: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Lead Trial Counsel

\_\_\_\_\_  
Print Name of Lead Trial Counsel

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\* If you represent more than one party or require approval from more than one carrier you must submit attendance information for all clients and relevant carriers.